

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

ROSA ANN HARRIS,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 1:18-CV-101
)	
REVENUE CYCLE SERVICES)	
CENTER, LLC d/b/a SHARED)	
SERVICES CENTER–FORT WAYNE,)	
and COMMUNITY HEALTH)	
SYSTEMS PROFESSIONAL)	
SERVICES CORP., LLC,)	
)	
Defendants.)	

OPINION AND ORDER

This matter is before the Court on the Motion to Dismiss filed by Defendants Community Health Systems Professional Services Corp., LLC and Lutheran Health Network of Indiana, LLC on June 25, 2018 (ECF 21). On August 20, 2018, this Court entered an order referring the motion to dismiss to Magistrate Judge Susan L. Collins “to conduct any necessary hearings and submit to this Court a Report and Recommendation for the disposition of the motion.” Court Order (ECF 40). Plaintiff Rosa Harris responded to the motion on October 15, 2018, by filing a motion for leave to amend her complaint (ECF 56). Two days later, during a telephonic status conference before Magistrate Judge Collins, Harris’s attorney¹ made an oral motion to modify her proposed First Amended Complaint—a request that was unopposed by the Defendants and granted by Judge Collins. *See* docket entry 57. On October 23, Harris filed what she designated as a “supplement”

¹ Harris filed this lawsuit *pro se*. The Court granted Harris’s request for appointment of counsel on September 19 and her response to the motion to dismiss—i.e., her motion for leave to amend—was filed by her appointed attorney.

to her motion for leave to amend, which was actually her Modified First Amended Complaint (ECF 58). Less than a week after that, Judge Collins issued her Report and Recommendation (ECF 60). The Report and Recommendation expressly informed the parties “that within 14 days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and recommendations.” Report and Recommendation, p. 3 (citing Fed.R.Civ.P. 72(b)). Neither side filed objections to the R & R; instead, Defendants Revenue Cycle Services Center, LLC, d/b/a Shared Services Center–Fort Wayne and Community Health Systems Professional Services Corp, LLC (but *not* Lutheran Health Network) filed their Answer to Harris’s Modified First Amended Complaint. Defendants’ Answer to Plaintiff’s Modified First Amended Complaint (ECF 63). At that juncture, the Modified First Amended Complaint was only a *proposed* complaint and the undersigned, as the presiding judge, had not yet adopted the Magistrate’s recommendation that Harris’s proposed Modified First Amended Complaint be deemed controlling and that the motion to dismiss be deemed moot. In other words, the remaining Defendants, Revenue Cycle d/b/a Shared Services and Community Health, filed an Answer to a proposed amended complaint that was not yet the controlling complaint in this case. However, given that the undersigned concludes that the recommendations made by Magistrate Judge Collins should be adopted, these procedural quirks are a “no harm, no foul” situation.

As Judge Collins explained in her R & R, “Harris and the Health Systems Defendants agree that the proposed amended complaint ‘properly identifies the correct Defendants and any further issues with named Defendants will likely be resolved with discovery.’” Report and Recommendation, p. 2. In other words, the proposed Modified First Amended Complaint

apparently cured the defects raised in the Defendants' motion to dismiss and so the parties (minus Lutheran Health Network, who was not named as a defendant in the amended complaint) agreed that the case should move forward and that the proposed Modified First Amended Complaint should be deemed the controlling complaint.² Accordingly, Revenue Cycle and Community Health went ahead and filed their Answer. While the cart may have gotten ahead of the horse in this case procedurally speaking, the outcome is as it should be: the case shall proceed on the allegations and claims presented in the Modified First Amended Complaint (ECF 58) and on the assertions and affirmative defenses presented by the Defendants' Answer (ECF 63).

CONCLUSION

For the reasons discussed above, the Court hereby ADOPTS the Report and Recommendation of the Magistrate Judge (ECF 60) in its entirety and holds as follows:

- 1) Plaintiff Rosa Harris's Modified First Amended Complaint (ECF 58) is deemed the controlling complaint in this case; and
- 2) the Motion to Dismiss filed by Community Health Systems and Lutheran Health Network (ECF 21) is DENIED AS MOOT.

Date: November 29, 2018.

William C. Lee
William C. Lee, Judge
United States District Court
Northern District of Indiana

² The motion to dismiss was based on arguments that neither Community Health Systems nor Lutheran Health Network were proper defendants in this employment discrimination case because neither was the Plaintiff's "employer" as that term is defined by the applicable statutes.